

TOWN OF WEMBLEY
BYLAW 763
Bylaw Enforcement Officer

**A Bylaw of the Town of Wembley in the Province of Alberta,
to establish the position of Bylaw Enforcement Officer.**

WHEREAS, Section 7 of the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended, provides that a Municipal Council may pass a bylaw for enforcement of bylaws;

AND WHEREAS, Section 210 of the Municipal Government Act, R.S.A. 2000, Chapter M26 as amended, outlines the appointment of Designated Officers;

AND WHEREAS, pursuant to Sections 555 and 556 of the Municipal Government Act, R. S.A. 2000, Chapter M-26, as amended, the Council of the Town of Wembley must by bylaw specify the powers and duties of Bylaw Enforcement Officers as defined by the Municipal Government Act or regulations, the Town of Wembley Enforcement Officer Bylaw and any other relevant bylaws;

NOW THEREFORE, the Council of the Town of Wembley, in the Province of Alberta, duly assembled, hereby enacts as follows:

1. This bylaw shall be cited as the "Bylaw Enforcement Officer Bylaw".

2. DEFINITIONS

In this Bylaw, unless the context otherwise requires:

2.1. "**Act**" means the Municipal Government Act, or MGA;

2.2. "**Bylaw**" means the Bylaws of the Municipality duly enacted pursuant to the Municipal Government Act and/or any other statutes of the Province of Alberta;

2.3. "**Bylaw Enforcement Officer**" means an individual appointed pursuant to this Bylaw as a Bylaw Enforcement Officer, including a Contract Bylaw Enforcement Officer;

2.4. "**CAO**" means the Chief Administrative Officer of the Town of Wembley appointed by Council in accordance with the provisions of the Municipal Government Act;

2.5. "**Contract Bylaw Enforcement Officer**" a person who is not an employee of the Town but means any third-party engaged by the Town and under current contract to provide bylaw enforcement services on behalf of the Town and may include, without limitation, another municipality, an individual, corporation, partnership or other legal entity;

- 2.6. **“Contracted Service Provider”** means a Contract Bylaw Enforcement Officer;
- 2.7. **“Council”** means Council of the Town of Wembley;
- 2.8. **“Designated Officer”** shall mean a Designated Officer within the meaning of the Municipal Government Act.
- 2.9. **“Enactment”** means:
- a. an Act of the Legislature of Alberta and a regulation made under an *Act of the Legislature of Alberta*, and
 - b. an Act of the Parliament of Canada and a statutory instrument made under an Act of the Parliament of Canada,
- but does not include a bylaw made by a council;
- 2.10. **“Manager”** means the employee of the Town who is responsible for managing the agreement with the Contracted Service Provider;
- 2.11. **“Misuse of Power”** means any failure of a Bylaw Enforcement Officer, by either act or omission:
- a. to perform or carry out their duties according to law; or
 - b. to carry out the duties and responsibilities assigned to them according to the terms and conditions of their appointment as a Bylaw Enforcement Officer.
- 2.12. **“Notice”** is any notice authorized to be given under any Town Bylaw, or enactment;
- 2.13. **“Town”** means the municipal corporation of the Town of Wembley, in the Province of Alberta or, if the context requires, the geographical area within the boundaries of the municipality;
- 2.14. **“Violation Ticket”** means any ticket which is authorized under the *Provincial Offences Procedures Act*, and any other enactment, and which may be issued to a violator for a breach of any bylaw offence.

3. **RULE OF INTERPRETATION**

- 3.1. The headings in this Bylaw are for guidance purposes and convenience only.
- 3.2. Every provision in this Bylaw is independent of all other provisions and if any provision Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
- 3.3. In this Bylaw, a citation of or reference to any enactment of the Province of Alberta or of Canada, or of any other bylaw of the Town, is a citation of or reference to that enactment

or bylaw as amended, whether amended before or after the commencement of the enactment or bylaw in which the citation or reference occurs.

- 3.4. Nothing in this Bylaw relieves a person from complying with any provision of any provincial or federal legislation or regulation, other bylaw or any requirement of any lawful permit, order, or licence.

4. ESTABLISHMENT

That the Designated Officer shall be the following Bylaw Enforcement Officer position is established:

- 4.1. Every Bylaw Enforcement Officer, before commencing his duties, shall take the official oath as prescribed by the *Oath of Office Act*, of the Province of Alberta as set out in Schedule "A" of this bylaw.

- 4.2. To execution of enforcement duties, responsible for the preservation and maintenance of the public peace:

- 4.2.1. The duties of any Bylaw Enforcement Officers may include, but are not limited to:

- 4.2.1.1. Enforcing Town Bylaws;
- 4.2.1.2. Responding to and investigating complaints;
- 4.2.1.3. Conducting routine patrols;
- 4.2.1.4. Issuing notices, or violation tickets in accordance with Bylaws;
- 4.2.1.5. Prosecution of any Bylaw contravention including appearances in Court to provide evidence;
- 4.2.1.6. Service of documents;
- 4.2.1.7. Ensure proper filing of information and documentation of circumstances;
- 4.2.1.8. Provide daily and monthly activity reports; and
- 4.2.1.9. Perform other duties as assigned by the CAO.
- 4.2.1.10. Abide by all applicable Municipal, Provincial, and Federal laws at all times that he/she is acting as a Bylaw Enforcement Officer.

- 4.3. That the position of bylaw enforcement officer be established to carry out the duties and responsibilities of a bylaw enforcement officer as designated in the Municipal Government Act:

- 4.3.1. Exercise all the powers, duties, and functions of designated officers to conduct any inspections, remedies, or enforcement authorized or required by a bylaw or enactment in accordance with section 542 of the Municipal Government Act;
- 4.3.2. Exercise all the powers, duties, and functions of a designated officer to issue written orders pursuant to section 545 and 546 of the Municipal Government Act;

- 4.3.3. Take whatever actions or measures are necessary to remedy a contravention or prevent a re-occurrence of a contravention of the Municipal Government Act, an enactment that the Town is authorized to enforce, or a bylaw in accordance with section 549 of the Municipal Government Act;
- 4.3.4. Take whatever actions or measures are necessary to eliminate a danger to public safety caused by a structure, excavation, or hole or to deal with the unsightly condition of a property in accordance with section 549 of the Municipal Government Act;
- 4.4. While acting in the course of their duties Bylaw Enforcement Officers shall carry or wear such identification in a form approved by the CAO, evidencing their appointment as a Bylaw Enforcement Officer.
- 4.5. Council by bylaw;
 - 4.5.1. specify the powers and duties of bylaw enforcement officer, and
 - 4.5.2. establish disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by bylaw enforcement officer.
- 4.6. Bylaw Enforcement Officer:
 - 4.6.1. Contract Bylaw Enforcement Officers shall execute the form of contract mutually agreed upon both parties. The duties of Contract Bylaw Enforcement Officers shall be as set out in the contract agreement;
 - 4.6.1.1. the Chief Administrative Officer may appoint one or more Bylaw Enforcement Officer.
 - 4.6.1.2. Agreement contract by resolution of Council.
- 4.7. The authority of a Bylaw Enforcement Officer shall terminate when:
 - 4.7.1. The person ceases to be an employee of the Town; or
 - 4.7.2. The Chief Administrative Officer terminates the appointment of the Bylaw Enforcement Officer without prior notice, with or without just cause; or
 - 4.7.3. Terminated by resolution of Council; or
 - 4.7.4. The authority of a Bylaw Enforcement Officer is suspended when suspended for disciplinary reasons; and
 - 4.7.5. Upon a Bylaw Enforcement Officer appointment ceasing to be in effect, other than when suspended, the Bylaw Enforcement Officer shall immediately return to the Chief Administrative Officer any uniforms, equipment, and Violation Ticket

books, appointment certificates, and all other materials or equipment supplied to the Bylaw Enforcement Officer by the Town.

5. DISCIPLINARY PROCEDURES

If the Town enters into an agreement with another Alberta municipality as a Contracted Service Provider, the agreement may provide for complaints of Misuse of Power and discipline of Bylaw Enforcement Officers to be dealt with by the Contracted Service Provider in accordance with the disciplinary procedures adopted by that municipality, by bylaw, otherwise the disciplinary procedures set out in this Part shall apply to all complaints regarding complaints of Misuse of Power by Bylaw Enforcement Officers.

6. COMPLAINTS

6.1. If a person reasonably believes there has been a Misuse of Power by a Bylaw Enforcement Officer, the person may file a complaint in accordance with this Part.

6.2. A complaint made under subsection (5.1) must:

- 6.2.1. be made in writing,
- 6.2.2. include the full name of the complainant,
- 6.2.3. include contact information for the complainant,
- 6.2.4. indicate the specific reasons for the complaint and,
- 6.2.5. be send to the Town, attention: Chief Administrative Officer.

6.3. Upon receipt of a complaint, the Chief Administrative Officer shall, as applicable, either:

- 6.3.1. forward the complaint to the Contracted Service Provider for investigation and
- 6.3.2. disposition in accordance with the Contracted Service Provider's disciplinary
- 6.3.3. procedures, or
- 6.3.4. ensure the complaint is processed in accordance with the procedures established in this Part.

6.4. Subject to clause 5.3.1, the CAO shall acknowledge receipt of a complaint, in writing, to the complainant and to the Bylaw Enforcement Officer against whom the complaint is made.

7. INVESTIGATION

- 7.1. Unless the complaint is being dealt with by the Contracted Service Provider in accordance with Section 5, the Manager shall proceed to investigate the complaint.
- 7.2. In conducting an investigation, the Manager may:
 - 7.2.1. speak to anyone relevant to the complaint;
 - 7.2.2. enter any Town facility or worksite relevant to the complaint;
 - 7.2.3. access any records relevant to the complaint, except a record that contains information that is subject to solicitor-client privilege unless privilege has been waived.
- 7.3. The Bylaw Enforcement Officer against whom a complaint has been made shall be given the opportunity to make a full response to the complaint allegations and provide supporting evidence in writing to the Manager.
- 7.4. After receipt of a complaint, the Manager may refuse to investigate or discontinue the investigation if, in the Manager's opinion,
 - 7.4.1. the complaint is frivolous, vexatious, or made in bad faith; or
 - 7.4.2. having regard to all of the circumstances, no investigation is necessary.
- 7.5. Upon the conclusion of the Manager's investigation the Manager shall issue a written decision summarizing the allegations, the findings and the Manger's conclusion as to whether the complaint is substantiated. A copy of the Manager's written decision will be provided to the complainant and to the Bylaw Enforcement Officer against whom the complaint was made.

8. APPEALS

- 8.1. An appeal from the decision of the Manager may be commenced by the Bylaw Enforcement Officer or the complainant by filing a written notice of the appeal with the Chief Administrative Officer within fourteen (14) days of receipt of the written decision issued by the Manager.
- 8.2. Upon receipt of an appeal the Chief Administrative Officer shall:
 - 8.2.1. obtain from the Manager, a copy of the complaint, the response of the Bylaw Enforcement Officer to the allegations, and all other documents received or prepared in the course of the Manger's investigation, along with the written decision of the Manager;
 - 8.2.2. provide the appellant with an opportunity to submit their reasons for the appeal, including the basis for concluding that the Manager erred in their written decision;

- 8.2.3. provide a copy of the written reasons for the appeal prepared by the appellant to the respondent; and
 - 8.2.4. give the respondent an opportunity to submit a written submission in response to the appellant's submissions, a copy of which will be provided by the CAO to the appellant.
- 8.3. The CAO shall conduct a review of all of the materials filed, and thereafter, shall:
- 8.3.1. confirm, vary, or set aside the decision of the Manager; and
 - 8.3.2. inform the appellant, the respondent, and the Manager of the CAO's decision, in writing, with reasons.
- 8.4. The decision of the CAO on an appeal arising from a decision of the Manager shall be final and conclusive with no further right of appeal to Council.

9. DISCIPLINARY ACTION

- 9.1. If it has been determined that a Misuse of Power has been committed by a Bylaw Enforcement Officer, appropriate disciplinary action may be taken including;
- 9.1.1. issuing a written reprimand to the Bylaw Enforcement Officer;
 - 9.1.2. suspending the Bylaw Enforcement Officer for a specified period of time; or
 - 9.1.3. terminating the appointment of the Bylaw Enforcement Officer.

10. SEVERABILITY

- 10.1. Should any provision of this Bylaw be found invalid, the invalid provision shall be severed, and the remaining Bylaw shall be maintained.

11. EFFECTIVE DATE

That this Bylaw is effective upon the date of its third and final reading.

READ a first time on this ___ day of _____, A.D., 2024.

READ a second time on this ___ day of _____, A.D., 2024.

READ a third time and passed on this ___ day of _____, A.D., 2024.



Mayor - Kelly Peterson

CAO - Noreen Zhang

ATTACHMENT:
Schedule "A": Oath of Office

Copy of Original

**TOWN OF WEMBLEY
BYLAW ENFORCEMENT OFFICER BYLAW
BYLAW 763**

**SCHEDULE "A"
OATH OF OFFICE**

[If swearing in accordance with section 2 of the *Oaths of Office Act*]

I, _____ swear that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer for the Town of Wembley.

So help me God.

SWORN BEFORE ME at the _____ of)
_____, in the Province of)
Alberta, this ____ day of _____)
20____.)
_____)

A Commissioner for Oaths)
in and for the Province of Alberta)

Signature of Bylaw Enforcement Officer

--- OR ---

[If solemnly affirming in accordance with section 4 of the *Oaths of Office Act*]

I, _____ solemnly affirm that I will diligently, faithfully and to the best of my ability execute according to law the office of Bylaw Enforcement Officer for the Town of Wembley.

AFFIRMED BEFORE ME at the _____ of)
_____, in the Province of)
Alberta, this ____ day of _____)
20____.)
_____)

A Commissioner for Oaths)
in and for the Province of Alberta)

Signature of Bylaw Enforcement Officer